



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAR 19 2015

Morteza Shafii
Assistant Chief
Arkansas Department of Environmental Quality
Water Division
5301 North Shore Drive
North Little Rock, AR 72218-531

Dear Mr. Shafii:

This letter serves to inform the Arkansas Department of Environmental Quality of a change to EPA regulations that affects your state NPDES permitting program, in accordance with the program authorization joint memorandum of agreement between the ADEQ and EPA. On August 19, 2014, EPA finalized its rule regarding sufficiently sensitive method use for NPDES applicants and permittees. The final rule was published in the Federal Register at 79 FR 49001. Please provide to EPA Region 6 by May 1, 2015, the state plan for ensuring timely implementation of this rule. This information should include the State of Arkansas actions to revise NPDES regulations by September 2015, or by September 2016, if statutory changes are needed, in accordance with 40 CFR 123.62. We ask that you also tell us of any revisions you anticipate will be made to permit implementation documents.

The final rulemaking is available at <http://cfpub.epa.gov/npdes/ssmethods.cfm> and a fact sheet with the details of the rule is attached. This rulemaking clarifies that NPDES applicants and permittees must use EPA-approved analytical methods capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The rule applies only to chemical-specific methods, not Whole Effluent Toxicity (WET) methods or their use. It pertains only to direct dischargers.

Should you have any questions regarding the rule and implementation, please contact me at (214) 665-7170 and hosch.claudia@epa.gov or Denise Hamilton at (214) 665-2775 and email at hamilton.denise@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Cl Hosch", is written over the typed name.

Claudia V. Hosch
Associate Director
Water Quality Protection Division
NPDES Permits and TMDLs Branch

Enclosure



United States Environmental Protection Agency
Office of Water, Office of Wastewater Management
Water Permits Division



August 2014

National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting

The U.S. Environmental Protection Agency (EPA) has finalized minor amendments to its Clean Water Act (CWA) regulations to codify that under the National Pollutant Discharge Elimination System (NPDES) program, where EPA has promulgated or otherwise approved analytical methods under 40 CFR Part 136, or 40 CFR Chapter I, subchapters N and O, permit applicants must use “sufficiently sensitive” analytical test methods when completing an NPDES permit application. Also, the Director (head of the permit-issuing authority) must prescribe that only “sufficiently sensitive” methods be used for analyses of pollutants or pollutant parameters under an NPDES permit.

The purpose of this rulemaking is to clarify that NPDES applicants and permittees must use EPA-approved analytical methods that are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. EPA modified existing NPDES application, compliance monitoring, and analytical methods regulations. The amendments in this final rulemaking affect only chemical-specific methods; they do not apply to the Whole Effluent Toxicity (WET) methods or their use.

This regulatory revision is based on requirements in the CWA and clarifies existing EPA regulations. It also codifies existing EPA guidance from the 2007 memorandum “Analytical Methods for Mercury in NPDES Permits” from James A. Hanlon, Director of EPA’s Office of Wastewater Management, to the Regional Water Division Directors on the use of “sufficiently sensitive” analytical methods with respect to measurement of mercury, and clarifies that the approach outlined in that guidance applies to the NPDES program more generally.

EPA has generally approved multiple methods for CWA pollutants under 40 CFR part 136 and 40 CFR chapter I, subchapters N and O. Some of the approved analytical test methods have greater sensitivities and lower minimum levels or method detection limits than other approved methods for the same pollutant. Many metals and toxic compounds (for example, mercury) have an array of EPA-approved methods, including some methods that have greater sensitivities and lower minimum levels than the others.

EPA and State permitting authorities use data from the permit application to determine whether pollutants are present in an applicant’s discharge and to quantify the levels of all detected pollutants. These pollutant data are then used to determine whether technology- or water quality-based effluent limits are needed in the facility’s NPDES permit. It is critical, therefore, that applicants provide data that have been measured at levels that will be meaningful to the decision-making process. The same holds true for monitoring and reporting relative to permit limits established for regulated parameters.

On August 19, 2014 EPA issued a *Federal Register* notice announcing the final amendments to the CWA regulations. You can view or download the complete text of the *Federal Register* notice at <https://federalregister.gov/a/2014-19265>. In addition, supporting documents are available in the docket at www.regulations.gov (docket identification No. EPA-HQ-OW-2009-1019).

Please contact Kathryn Kelley of the Water Permits Division at 202-564-7004, or kelly.kathryn@epa.gov, with any questions regarding this regulatory revision.